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December 7, 2017

Via ECF

U.S. District Court
Western District of New York
2 Niagara Square
Buffalo, New York 14202

Attn: Hon. Michael J. Roemer

Re: ***Horn v. Medical Marijuana, Inc., et al.***
Case No: 15-CV-701 (FPG-MJR)

Dear Judge Roemer:

I am the Plaintiffs' counsel in the above-captioned matter. I write to the Court to report of a discovery dispute between the parties.

The parties are now in the midst of expert depositions. The Case Management Order gives us until December 29, 2017 to complete them.

On October 19, 2017, I informed all defense counsel as to the available dates of plaintiffs' experts for their depositions throughout November and December. Having heard nothing, I followed up on November 7, 2017 again requesting they confirm the expert deposition dates I had offered. I did not hear from defense counsel as to a firm schedule until November 16, 2017. At that very time, I warned counsel that I did not believe I would be able to finish both of defendants' expert depositions in one day.

The depositions of the plaintiffs' expert toxicologist went forward on December 1, and plaintiffs' Economist went forward on December 4 without incident. I expect the defendant's liability expert deposition to go forward without incident and as planned on December 12, 2017.

However, after speaking with both of my experts after their depositions on December 4, 2017, it was clear to me that I would not be able to complete both in one day. In any event, I do not want to be limited to rushing through one to get to the other on December 12, 2017. As such, at night on December 4, 2017 after returning from Buffalo, I immediately informed defense counsel that I could not proceed with their CPA's deposition on December 12, 2017 together with their liability expert's, but offered to do so any day of the week of December 18, 2017 and I further offered to conduct it in Buffalo if so desired. This was an effort to comply with the Case Management Order currently in place.

Defense counsel responded that they would not be able go forward that week and insisted I proceed with both on December 12, 2017.

I am therefore placed in the position of having to request of Your Honor an extension of time for the limited purpose of this one final expert's deposition beyond the December 29, 2017 deadline in the Case Management Order. I request the extension to be a January date to which defense counsel and their CPA (and myself) can conveniently commit; and I still may be able to go forward in Buffalo if necessary, as opposed to Manhattan.

This is my first request for an extension as to the deadline for expert witness depositions. I previously (in June) made a motion to extend fact discovery when I entered this case which was denied.

Thank you for your consideration.

Very truly yours,

Jeffrey Benjamin

Jeffrey Benjamin, Esq.

JB

cc: All parties via ECF